SCHEDULES

SCHEDULE 3

Section 20.

ARBITRATION

PART I

GENERAL

Establishment of Tribunal

1 If a party to a dispute such as is mentioned in subsection (1) of section 20 above serves on the other party or parties to the dispute, at a time when no proceedings relating to it have been commenced in any court, a notice that he wishes the dispute to be determined by arbitration, the Secretary of State shall by order establish a tribunal to determine the dispute and any other dispute such as is mentioned in subsection (2) of that section.

2 An order under paragraph 1 above shall be laid before each House of Parliament.

3 A tribunal shall be a court of record and shall have an official seal which shall be judicially noticed.

4 **[**[F1](1)**]** A tribunal shall, as the Lord Chancellor may**[**[F2] , after consulting the Lord Chief Justice of England and Wales, the Lord President of the Court of Session and the Lord Chief Justice of Northern Ireland, **]** direct, either sit as a single tribunal or sit in two or more divisions and, subject to paragraph 5 below, shall, for the hearing of any proceedings, consist of—

(a) a president who shall be

[[F3](i) a person who satisfies the judicial-appointment eligibility condition on a 5-year basis; or**]**

[[F4](ii) a member of the Bar of Northern Ireland or **[**[F5]solicitor of the Court of Judicature of Northern**]** of at least **[**[F6]5 **]**years' standing,**]** appointed by the Lord Chancellor, and

(b) two other members appointed by the Secretary of State, one being a person of experience in business and the other being a person of experience in finance.

[[F7](2) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.

(3) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this paragraph.

(4) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this paragraph—

(a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;

(b) a Lord Justice of Appeal (as defined in section 88 of that Act).**]**

Textual Amendments

F1 Sch. 3 para. 4(1): Sch. 3 para. 4 renumbered as Sch. 3 para. 4(1) (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 4 para. 81(2)(a)**; S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(e)

F2 Words in Sch. 3 para. 4(1) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 4 para. 81(2)(b)**; S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(e)

F3 Sch. 3 para. 4(1)(a)(i) substituted (21.7.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 10 para. 12(2)**; S.I. 2008/1653, art. 2(d) (with arts. 34)

F4 Sch. 3 para. 4(*a*)(i)(ii) substituted for words by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 71(2), **Sch. 10 para. 39**

F5 Words in Act substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 11 para. 5**; S.I. 2009/1604, art. 2(d)

F6 Word in Sch. 3 para. 4(1)(a)(ii) substituted (21.7.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 10 para. 12(3)**; S.I. 2008/1653, art. 2(d) (with arts. 34)

F7 Sch. 3 para. 4(2)-(4) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 4 para. 81(2)(c)**; S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(e)

5 In its application to proceedings which, by virtue of paragraph 18 below, are to be treated as Scottish proceedings,**[**[F8]paragraph 4(1)**]** above shall have effect with the substitution, for sub-paragraph (*a*) thereof, of the following sub-paragraph:—

"(*a*) a president who shall be an advocate or solicitor who has practised in Scotland and who shall be appointed by the Lord President of the Court of Session".

Textual Amendments

F8 Words in Sch. 3 para. 5 substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 4 para. 81(3)**; S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(e)

6 **[**[F9](1)**]** **[**[F10]Subject, in the case of the president of a tribunal, to sub-paragraph (2) below**]**The members of a tribunal shall hold office for such period as may be determined at the time of their respective appointments and shall be eligible for reappointment but, notwithstanding that the period for which a member was appointed has not expired, —

(a) a member may, at any time by not less than one month's notice in writing to his appointor, resign his office;

(b) the appointor of a member may declare the office of that member vacant on the ground that he is unfit to continue in his office; and

(c) if any member **[**[F11]is the subject of a bankruptcy restrictions order **[**[F12]or an interim bankruptcy restrictions order, or a debt relief restrictions order or interim debt relief restrictions order under Schedule 4ZB of the Insolvency Act 1986**]]** or, in Scotland, if sequestration of a member's estate is awarded [F13]..., his office shall thereupon become vacant.

[F14(2) No appointment of a person to be the president of a tribunal shall be such as to extend beyond the day on which he attains the age of [F15]75].]

Textual Amendments

F9 Sch. 3 para. 6 numbered as sub-paragraph (1) of that paragraph (31.3.1995) by 1993 c. 8, s. 26, **Sch. 6 para. 52(1)** (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631, **art. 2**.

F10 Words in Sch. 3 para. 6(1) inserted (31.3.1995) by 1993 c. 8, s. 26, **Sch. 6 para. 52(2)** (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631, **art. 2**.

F11 Words in Sch. 3 para. 6(1)(c) substituted (29.6.2006) by Enterprise Act 2002 (Disqualification from Office: General) Order 2006 (S.I. 2006/1722), art. 1(1), **Sch. 2 para. 1(a)**

F12 Words in Sch. 3 para. 6(1)(c) substituted (1.10.2012) by The Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012 (S.I. 2012/2404), art. 1, **Sch. 2 para. 9** (with arts. 5, 6)

F13 Words in Sch. 3 para. 6(1)(c) omitted (29.6.2006) by virtue of Enterprise Act 2002 (Disqualification from Office: General) Order 2006 (S.I. 2006/1722), art. 1(1), **Sch. 2 para. 1(b)**

F14 Sch. 3 para. 6(2) added (31.3.1995) by 1993 c. 8, s. 26, **Sch. 6 para. 52(2)** (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631, **art. 2**.

F15 Word in Sch. 3 para. 6(2) substituted (10.3.2022) by Public Service Pensions and Judicial Offices Act 2022 (c. 7), s. 131(1)(4)(a), **Sch. 1 para. 13** (with Sch. 1 para. 43)

7 If any member of a tribunal becomes, by reason of illness or other infirmity, temporarily incapable of performing the duties of his office, his appointor shall appoint some other fit person to discharge his duties for any period not exceeding 6 months at any one time, and the person so appointed shall during that period have the same powers as the person in whose place he was appointed.

8 In this Part of this Schedule, "appointor", in relation to a member of a tribunal means—

(a) in the case of a member appointed under sub-paragraph (*a*) of [F16paragraph 4(1)] above, the Lord Chancellor or, if paragraph 5 above applies, the Lord President of the Court of Session; and

(b) in the case of any other member, the Secretary of State.

Textual Amendments

F16 Words in Sch. 3 para. 8(a) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 4 para. 81(4)**; S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(e)

[F17]8A Where the appointor is, by virtue of paragraph 8(a), the Lord Chancellor, the power conferred by paragraph 6(1)(b) may be exercised only with the concurrence of the appropriate senior judge.

Textual Amendments

F17 Sch. 3 para. 8A, 8B inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 4 para. 81(5)**; S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(e)

8B The appropriate senior judge is the Lord Chief Justice of England and Wales, unless the member to be removed exercises functions wholly or mainly in Northern Ireland, in which case it is the Lord Chief Justice of Northern Ireland.]

Textual Amendments

F17 Sch. 3 para. 8A, 8B inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 4 para. 81(5)**; S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(e)

9 In Part II of Schedule 1 to the [M1]House of Commons Disqualification Act 1975 and in Part II of Schedule 1 to the [M2]Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified), there shall be inserted at the appropriate place in alphabetical order:— "An Arbitration Tribunal established under Schedule 3 to the Industry Act 1975".

Modifications etc. (not altering text)

C1 The text of ss. 23–26, 39(3), Sch. 1 para. 11, Sch. 3 paras. 9, 10 and Schedule 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M1 1975 c.24

M2 1975 c.25

[F18]10 . . . . . .

Textual Amendments

F18 Sch. 3 para. 10 repealed (1.10.1992) by Tribunals and Inquiries Act 1992 (c. 53), ss. 18(2), 19(2), **Sch. 4 PartI**

Staff and expenses

11 A tribunal may appoint such officers as they consider necessary for assisting them in the proper execution of their duties.

12 (1) There shall be paid to members of a tribunal such remuneration (whether by way of salaries or fees) and such allowances as the Secretary of State may, with the approval of **[**[F19]the Treasury**]**, determine.

(2) There shall be paid to any officer appointed under paragraph 11 above and any person to whom proceedings are referred by the tribunal under paragraph 27 below for inquiry and report such remuneration (whether by way of salary or fees) and such allowances as the tribunal may, with the approval of the Secretary of State given with the consent of **[**[F19]the Treasury**]**, determine.

(3) The Secretary of State shall pay such remuneration and allowances and any other expenses of a tribunal shall be defrayed by the Secretary of State out of money provided by Parliament.

Textual Amendments

F19 Words substituted by virtue of S.I. 1981/1670, **arts. 2(1)**(*d*)(2), 3(5)

PART II

PROCEEDINGS

Proceedings other than Scottish proceedings

13 Paragraphs 14 to 17 below shall have effect with respect to proceedings of a tribunal other than those which, by virtue of paragraph 18 below, are to be treated as Scottish proceedings.

14 The provisions of **[**[F20]Part I of the Arbitration Act 1996**]** with respect to—

(a) the administration of oaths and the taking of affirmations,

(b) the correction in awards of mistakes and errors,

(c) the summoning, attendance and examination of witnesses and the production of documents, and

(d) the costs of the reference and award,

shall, with any necessary modifications, apply in respect of such proceedings but, except as provided by this paragraph, the provisions of **[**[F21]that Part**]** shall not apply to any such proceedings.

Textual Amendments

F20 Words in Sch. 3 para. 14 substituted (31.1.1997 subject to transitional provisions) by 1996 c. 23, s. 107(1), **Sch. 3 para. 30(a)**; S.I. 1996/3146, **art. 3**.

F21 Words in Sch. 3 para. 14 substituted (31.1.1997 subject to transitional provisions) by 1996 c. 23, s. 107(1), **Sch. 3 para. 30(b)** (with s. 81(2)); S.I. 1996/3146, **art. 3**.

15 A tribunal may, and if so ordered by the Court of Appeal shall, state in the form of a special case for determination by the Court of Appeal any question of law which may arise in such proceedings.

16 An appeal shall lie to the Court of Appeal on any question of law or fact from any determination or order of the tribunal with respect to compensation under section 16(6) above.

17 (1) Subject to the provisions of this Schedule, the procedure in or in connection with any such proceedings shall be such as may be determined by rules made by the Lord Chancellor by statutory instrument.

(3) A statutory instrument containing rules made under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Scottish proceedings

18 Where a dispute submitted to a tribunal relates to capital of a body corporate whose principal place of business is situated in Scotland, or assets which are situated in Scotland, then, subject to paragraph 20 below, the proceedings before the tribunal in respect of the dispute shall be treated as Scottish proceedings.

19 If, at any stage in any proceedings before a tribunal which would not otherwise fall to be treated as Scottish proceedings, the tribunal are satisfied that, by reason of the fact that questions of Scottish law arise or for any other reason, the proceedings ought thereafter to be treated as Scottish proceedings, the tribunal may order that

they shall thereafter be so treated and the provisions of this Schedule shall have effect accordingly.

20 If, at any stage in any proceedings before a tribunal which would otherwise be treated as Scottish proceedings, the tribunal are satisfied that, by reason of the fact that questions of English law arise or for any other reason, the proceedings ought not to be treated as Scottish proceedings, they may make an order that the proceedings shall thereafter not be treated as Scottish proceedings and the proceedings of this Schedule shall have effect accordingly.

21 In Scottish proceedings a tribunal shall have the like powers for securing the attendance of witnesses and the production of documents and with regard to the examination of witnesses on oath and the awarding of expenses as if the tribunal were an arbiter under a submission.

22 A tribunal may and if so directed by the Court of Session shall state a case for the opinion of that Court on any question of law arising in Scottish proceedings.

23 (1) An appeal shall lie to the Court of Session on any question of law or fact from any determination or order of the tribunal with respect to compensation under section 16(6) above.

(2) An appeal shall lie, with the leave of the Court of Session or of the **[**[F22]Supreme Court**]**, from any decision of the Court of Session under this paragraph, and such leave may be given on such terms as to costs or otherwise as the Court of Session or the **[**[F22]Supreme Court**]** may determine.

Textual Amendments

F22 Words in Sch. 3 para. 23(2) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 9 para. 27**; S.I. 2009/1604, art. 2(d)

24 (1) Subject to the provisions of this Schedule, the procedure in or in connection with Scottish proceedings shall be such as may be determined by rules made by the Lord Advocate by statutory instrument.

(2) A statutory instrument containing rules made under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Modifications etc. (not altering text)

C2 Sch. 3 para. 24: functions of the Lord Advocate transferred to the Secretary of State, and all property, rights and liabilities to which the Lord Advocate is entitled or subject in connection with any such function transferred to the Secretary of State for Scotland (19.5.1999) by S.I. 1999/678, arts. 2(1), 3, **Sch.** (with art. 7)
Sch. 3 para. 24: transfer of functions (1.7.1999) by S.I. 1999/1750, art. 2, **Sch. 1** (with art. 7)

25 Unless the tribunal consider that there are special reasons for not doing so, they shall sit in Scotland for the hearing and determination of any Scottish proceedings.

All proceedings

26 Every order of a tribunal—

(a) shall be enforceable in England and Wales and Northern Ireland as if it were an order of the High Court; and

(b) may be recorded for execution in the books of Council and Session and may be enforced accordingly.

27 A tribunal may, at any stage in any proceedings before them, refer to a person or persons appointed by them for the purpose any question arising in the proceedings, other than a question which in their opinion is primarily one of law, for inquiry and report, and the report of any such person or persons may be adopted wholly or partly by the tribunal and, if so adopted, may be incorporated in an order of the tribunal.

Changes to legislation:
There are currently no known outstanding effects for the Industry Act 1975, SCHEDULE 3.